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13 TONJA BROWN, *administratrix* of the
14 Estate of NOLAN KLEIN and TONJA
BROWN as an Individual:

Case No. 3:10-cv-00679-HDM-VPC

15 Plaintiff.

16 | vs.

17 STATE OF NEVADA *ex rel.* the
18 DEPARTMENT OF CORRECTIONS, and
19 HOWARD SKOLNIK, DIRECTOR OF THE
DEPARTMENT OF CORRECTIONS;

**STIPULATION AND PROPOSED
ORDER FOR EXTENSION OF
TIME TO CONDUCT MEDIATION
and SUBSEQUENT DEADLINES**

(SECOND REQUEST)

20 | Defendant.

22 COME NOW Defendant by and through Counsel, WILLIAM GEDDES, ESQ.,
23 Nevada Attorney General's Office and Plaintiffs by and through Counsel, TREVA J.
24 HEARNE, ESQ. Hager & Hearne, and, and hereby stipulate as follows:

25 I. STIPULATION

26 | WHEREAS:

27 1. The original discovery cut-off for this case was August 3, 2011, with
28 summary judgment motions due thirty (30) days later, or by September 2, 2011

1 (Docket No. 015, the Scheduling Order):

2 2. However, during a status conference, the parties expressed to the Court
3 their desire to convene a court-preserved settlement conference in this case;

4 3. The parties desired to hold such a settlement conference after the close
5 of discovery, on the expectation that completing discovery would permit the parties to
6 become better informed as to the merits and demerits of their cases, thereby enabling
7 them to better evaluate the settlement dimensions of this case;

8 4. The parties further desired to stay the briefing schedule on any summary
9 judgment motion that might be filed in this case until *after* the settlement conference, so
10 as to allow the parties: (a) to promote a settlement perspective, rather than divisive
11 motion practice; and (b) to conserve the parties and the Court's resources that might be
12 unnecessarily wasted, should the case settle at the mediation conference;

13 5. Accordingly, on June 3, 2011, the Court granted that request, issuing its
14 Order of Docket No. 22, which scheduled a settlement conference for Thursday, August
15 11, 2011 at 9:00 a.m.;

16 6. On July 11, 2011, in Docket No. 026, the parties jointly requested of the
17 Court that additional time be given to complete depositions in this case. This was their
18 first and only request to extend discovery;

19 7. When petitioning the Court for this extension, the parties were careful to
20 request that all subsequent dates, that relate to the close of discovery, including
21 *mediation and summary judgment motions* also be extended accordingly, as follows:

THEREFORE IT IS HEREBY STIPULATED AND AGREED
TO BY AND AMONG THE PARTIES:

25 1. Discovery should be enlarged by thirty (30) days,
24 through and including September 2, 2011, for the limited
25 purposes of completing the above-referenced depositions;
 and

26 2. The parties agree to jointly petition the Court for such an enlargement of time to complete these depositions.

28 | //

1 3. The remaining scheduling order should also be
2 enlarged by thirty (30) days, including the date for the
3 mediation conference, and the deadlines for summary
 judgment motions, and the other post-discovery deadlines.

4 (Docket No. 026, p. 3, ll. 1-10.)

5 8. On July 13, 2011, the Court granted that request, in its Order of Docket
6 No. 029, and separately issued;

7 9. On August 5, 2011, the Court issued its Order of Docket No. 034,
8 rescheduling the settlement conference from August 11, 2011 to October 24, 2011;

9 10. Since that time, counsel for the parties have encountered extremely
10 congested schedules in the period leading up to and after October 24, 2011, as below
11 set forth:

12 a. For Defense Counsel, he has had to prepare for taking or
13 defending depositions every week in the Month of October, 2011, for the nationwide
14 tobacco arbitration, as follows:

15 i. October 3-6, 2011: preparation for, and the taking of, out-of-
16 state deposition of the RJR Tobacco Company "database-topic" Rule 30(b)(6) witness
17 in Washington, D.C., and travel time for the same;

18 ii. October 10-14, 2011: preparation for, and the taking of, in-
19 state depositions of the State of Nevada's two Rule 30(b)(6) witnesses;

20 iii. October 17-21, 2011: preparation for and the taking of: (a)
21 Out-of-state deposition of the Daughters and Ryan deposition, in Washington, D.C.,
22 and travel time for the same; and (b) out-of-state deposition of the RJR Tobacco
23 Company "general-topic" 30(b)(6) witness in North Carolina, and travel time for the
24 same;

25 iv. October 24-28, 2011: preparation for and the taking of the
26 Philip Morris Rule 30(b)(6) "general-topic" deposition in Richmond, Virginia, and travel
27 time for the same;

28 b. For Plaintiffs' counsel, their calendar is, as follows:

11 11. Accordingly, the parties agree to jointly petition the Court herein to
12 continue the Settlement Conference and all post-settlement-conference deadlines to a
13 later date;

14 12. Upon making inquiry of the Clerk of the Court, the parties have learned
15 that November 29, 2011 appears to be a potential date of availability for the Court to
16 hold a rescheduled mediation conference;

17 THEREFORE IT IS HEREBY STIPULATED AND AGREED TO BY AND AMONG THE
18 PARTIES:

19 1. The mediation conference, currently scheduled for October 24, 2011 be
20 vacated and rescheduled for Tuesday, November 29, 2011 at 9:00 a.m.;

21 2. The deadlines triggered by any failed mediation conference would be
22 enlarged, such that: (a) any **summary judgment motions** be filed no later than thirty
23 (30) days after the mediation conference, or by Thursday, December 29, 2011; and (b)
24 if no summary judgment motions are filed, then the parties shall file their **joint pretrial**
25 **order** thirty (30) days after the deadline for filing summary judgment motions, or by
26 Monday, January 30, 2012 (given that the thirtieth (30) day following December 29,
27 2011 falls on a Saturday and is automatically extended by operation of Fed. R. Civ. P.
28 6);

1 3. The parties agree to jointly petition the Court for such an enlargements of
 2 time, as herein stipulated.

4 Dated: October 7, 2011	5 Dated: October 10, 2011
	/s/ TREVA J. HEARNE
6 WILLIAM J. GEDDES, ESQ. #6984 7 Senior Deputy Attorney General 8 Nevada Attorney General's Office 100 N. Carson St., 9 Carson City, NV 89701-4717 10 Attorneys for Defendant	TREVA J. HEARNE, ESQ., #4450 HAGER & HEARNE 245 E. Liberty St., Suite 110 Reno, NV 89501 (775) 329-5800

11

12 ORDER

13 The Court, having reviewed the preceding Stipulation and GOOD CAUSE
 14 APPEARING THEREFORE, HEREBY ORDERS that the mediation conference, currently
 15 scheduled for October 24, 2011 be vacated and rescheduled for **Tuesday, November**
 16 **29, 2011** at **9:00 a.m.** The settlement conference statements shall be received in
 17 chambers by no later than **Tuesday, November 22, 2011**. All other aspects of the
 18 Court's *Order Scheduling Settlement Conference* (Docket No. 22) shall remain in effect.
 19 IT IS FURTHER ORDERED THAT, should the Settlement Conference fail to settle this
 20 case, any summary judgment motions that the parties wish to file be filed no later than
 21 **Thursday, December 29, 2011**. If no summary judgment motions are filed, then the
 22 parties shall file their joint pretrial order by **Monday, January 30, 2012**.

23 IT IS SO ORDERED *There shall be no further
 24 extensions of the scheduling rules in this case. VPL*

25 DATED this 14th day of October, 2011.

26 
 27 UNITED STATES MAGISTRATE JUDGE
 28